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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,523	02/24/2004	Albert R. Barlow	90973.000014	8306
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Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER TALBOT, MICHAEL	
			ART UNIT 3722	PAPER NUMBER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,523

Applicant(s)

BARLOW, ALBERT R.

Examiner

Michael W. Talbot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/29/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 16-28 in the reply filed on 17 October 2006 is acknowledged. In addition, new claims 29-35 have been added in the reply filed on 17 October 2006.

Specification

2. The disclosure is objected to because of the following informalities:

Refer to page 11, paragraph [0042], line 2, the character reference "base panel 24" should be changed so as to read --base panel 20--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 16-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to the Applicant's claim invention regarding the claimed limitation of "A molded product or container". Is it a molded product? Or is it a molded container?

Claim Rejections - 35 USC § 102 & 35 USC § 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16,17,19,20,23-26 and 35 are rejected under 35 U.S.C. 102(b) as anticipated by Franko, SR. et al. 2003/0017293 or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brandt '850. Franko, SR. et al. 2003/0017293 shows in Figure 1 a molded product/container (C) having an integrally molded multi-panel label (10) molded into a wall of the product/container, the multi-panel label comprising a base panel (100) and an overlying panel (130) having graphics or other information printed on at least one of the panels (paragraph [0025]), the base panel being permanently bonded (paragraph [0004]) to the wall within a recess (inherent within molding process) formed by the multi-panel label within the wall during molding, and the overlying panel is at least partially separable (via 110) from the base panel (at 115) so that the overlying panel is at least partially separable from the base panel to reveal the printed information in the base panel (Fig. 1 and paragraph [0029]). Franko, SR. et al. 2003/0017293 shows the overlying panel having a front surface (135) that is substantially flush with an exterior surface of the wall. Franko, SR. et al. 2003/0017293 shows an adhesive (120) layer between the overlying and base panels temporarily bonding the overlying and base panel together (Fig. 1 and paragraph [0029]). Franko, SR. et al. 2003/0017293 shows the adhesive characteristics of the adhesive layer are not adversely affected by transmissions of heat from the molten material that forms the wall of the product/container. Franko, SR. et al. 2003/0017293 shows the multi-panel further comprising a release layer (110) between the base and overlying panels. Franko, SR. et al. 2003/0017293 shows the release layer patterned so that the pressure-sensitive adhesive layer forms a permanent bond between a first overlapping area (left side at L and 120

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as viewed in Fig. 2) and a temporary bond between a second overlapping area (right side at 115 as viewed in Fig. 2) between the base and overlaying panels. Franko, SR. et al. 2003/0017293 shows the overlying panel having periphery and a first portion of the periphery (right side at 115 as viewed in Fig. 2) within the second overlapping area so that the overlying panel can be peeled away from the base panel for revealing graphics or other information printed on the base panel. (Fig. 1 and paragraph [0029]). Franko, SR. et al. 2003/0017293 shows the base panel being made of resin film and the overlying panel being made of paper (paragraphs [0023] and [0028]).

In the alternative, if it is argued that a recess is not present and/or the overlying panel with its front surface is not substantially flush with an exterior surface of the wall after the in-molding process within Franko, SR. et al. 2003/0017293, Brandt '850 shows in Figures 2 and 5 a molded product/container (C) having an integrally molded multi-panel label (Lc) molded into a wall within a recess (Fig. 5) formed by the multi-panel label within the wall during molding and the front surface of the label is substantially flush with an exterior surface of the wall (Fig. 5). In view of this teaching, it would have been obvious to one of ordinary skill in the art to modify the relationship between the integrally molded label and the molded product/container of Franko, SR. et al. 2003/0017293 to included a recess for the integrally molded label within the molded product/container such that the front surface of the integrally molded label is substantially flush with the exterior surface of the molded product/container as taught by Brandt '850 to provide a smooth exterior surface void of areas susceptible to marring/damage to the label during handling due to it's surface extending away from the exterior surface of the product/container.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Schroeder '937. Franko, SR. et al. 2003/0017293 lacks a finger well formed in a portion of the exterior surface of the wall of the product/container to expose a limited portion of the overlying panel's periphery.

Schroeder '937 shows in Figures 1-3B a finger well (302,402) formed in a portion of the exterior surface of the wall of the product/container (10,300,400) to expose a limited portion of the overlying panel's (28) periphery. In view of this teaching of Schroeder '937, it would have been obvious to modify the molded product/container of Franko, SR. et al. 2003/0017293 to include a finger well as taught by Schroeder '937 to provide ease of accessibility to the overlying panel for removal and/or insertion within the recess of the exterior surface of the wall of the product/container, thus positioning the overlying panel out of areas susceptible to marring/damage to the label during handling due to it's surface extending away from the exterior surface of the product/container.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Schroeder '937. Franko, SR. et al. 2003/0017293 in view of Brandt '850 lacks a finger well formed in a portion of the exterior surface of the wall of the product/container to expose a limited portion of the overlying panel's periphery.

Schroeder '937 shows in Figures 1-3B a finger well (302,402) formed in a portion of the exterior surface of the wall of the product/container (10,300,400) to expose a limited portion of the overlying panel's (28) periphery. In view of this teaching of Schroeder '937, it would have been obvious to modify the molded product/container of Franko, SR. et al. 2003/0017293 in

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view of Brandt '850 to include a finger well as taught by Schroeder '937 to provide ease of accessibility to the overlying panel for removal and/or insertion within the recess of the exterior surface of the wall of the product/container, thus positioning the overlying panel out of areas susceptible to marring/damage to the label during handling due to it's surface extending away from the exterior surface of the product/container.

11. Claims 21,22,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Gartner et al. '363. Franko, SR. et al. 2003/0017293 lacks the overlying panel being a plurality of overlying panels that are temporarily bonded to each other via a pressure-sensitive material including an acrylic emulsion and formed from a folded substrate.

Gartner et al. '363 shows in Figures 1-8 a multi-panel label (8) having a base panel (20) and an overlying panel (10,40,43) being a plurality of overlying panels (10,40,43) that are temporarily bonded to each other via a pressure-sensitive material (45) including an acrylic emulsion (col. 4, lines 13-16) and formed from a folded substrate (Fig. 6 and col. 5, line 48 through col. 6, line 28). In view of this teaching of Gartner et al. '363, it would have been obvious to modify the multi-panel label of Franko, SR. et al. 2003/0017293 to include an overlying panel being a plurality of overlying panels that are temporarily bonded to each other via a pressure-sensitive material including an acrylic emulsion and formed from a folded substrate as taught by Gartner et al. '363 to provide the much needed additional space for displaying graphics and/or recording information conveyed to the user.

12. Claims 21,22,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Gartner et al. '363. Franko, SR. et al. 2003/0017293 in view of Brandt '850 lacks the overlying panel being a

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plurality of overlying panels that are temporarily bonded to each other via a pressure-sensitive material including an acrylic emulsion and formed from a folded substrate.

Gartner et al. '363 shows in Figures 1-8 a multi-panel label (8) having a base panel (20) and an overlying panel (10,40,43), being a plurality of overlying panels (10,40,43) that are temporarily bonded to each other via a pressure-sensitive material (45) including an acrylic emulsion (col. 4, lines 13-16) and formed from a folded substrate (Fig. 6 and col. 5, line 48 through col. 6, line 28). In view of this teaching of Gartner et al. '363, it would have been obvious to modify the multi-panel label of Franko, SR. et al. 2003/0017293 to include an overlying panel being a plurality of overlying panels that are temporarily bonded to each other via a pressure-sensitive material including an acrylic emulsion and formed from a folded substrate as taught by Gartner et al. '363 to provide the much needed additional space for displaying graphics and/or recording information conveyed to the user.

13. Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Heider '057. Franko, SR. et al. 2003/0017293 lacks a first adhesive layer located between the base panel and the wall of the product/container including a heat-activated adhesive.

Heider '057 shows in Figures 1 and 2 a product/container (10) having a molded multi-panel label (L) with a first adhesive layer (15) located between the base panel (18) and the wall (11,17) of the product/container including a heat-activated adhesive (col. 2, lines 27-37). In view of this teaching of Heider '057, it would have been obvious to modify the molded product/container of Franko, SR. et al. 2003/0017293 to include a first heat-activated adhesive layer located between the base panel and the wall of the product/container as taught by Heider '057 to provide for a strong adhesion of the label to the product/container which is undergoing a

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similar elevated heating environment during the in-mold process, thus eliminating potential adverse affects of heat causing poor adhesion.

14. Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Heider '057. Franko, SR. et al. 2003/0017293 in view of Brandt '850 lacks a first adhesive layer located between the base panel and the wall of the product/container including a heat-activated adhesive.

Heider '057 shows in Figures 1 and 2 a product/container (10) having a molded multi-panel label (L) with a first adhesive layer (15) located between the base panel (18) and the wall (11,17) of the product/container including a heat-activated adhesive (col. 2, lines 27-37). In view of this teaching of Heider '057, it would have been obvious to modify the molded product/container of Franko, SR. et al. 2003/0017293 in view of Brandt '850 to include a first heat-activated adhesive layer located between the base panel and the wall of the product/container as taught by Heider '057 to provide for a strong adhesion of the label to the product/container which is undergoing a similar elevated heating environment during the in-mold process, thus eliminating potential adverse affects of heat causing poor adhesion.

15. Claim 33 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Heider '057, further in view of Dronzek, Jr. et al. '261. Franko, SR. et al. 2003/0017293 in view of Heider '057 lacks the overlying panel being perforated so that a portion of the overlying panel can be separated along the perforation and peeled away from the base panel.

Dronzek, Jr. et al. '261 shows in Figure 2 a multi-panel in-mold label (4) having a base panel (portion attached to bottle 2) and an overlying panel (4a,4b,6), wherein the overlying panel is perforated (starting at notches 8a,8b) so that a portion (6) of the overlying panel can be separated along the perforation and peeled away from the base panel. In view of this teaching

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of Dronzek, Jr. et al. '261, it would have been obvious to modify the multi-panel in mold label of Franko, SR. et al. 2003/0017293 in view of Heider '057 to include the overlying panel with a perforated, removable section as taught by Dronzek, Jr. et al. '261 to allow for easy removal of an informational section, thus displaying additional information located on the base panel which is conveyed to the user.

16. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Heider '057, further still in view of Dronzek, Jr. et al. '261. Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Heider '057 lacks the overlying panel being perforated so that a portion of the overlying panel can be separated along the perforation and peeled away from the base panel.

Dronzek, Jr. et al. '261 shows in Figure 2 a multi-panel in-mold label (4) having a base panel (portion attached to bottle 2) and an overlying panel (4a,4b,6), wherein the overlying panel is perforated (starting at notches 8a,8b) so that a portion (6) of the overlying panel can be separated along the perforation and peeled away from the base panel. In view of this teaching of Dronzek, Jr. et al. '261, it would have been obvious to modify the multi-panel in mold label of Franko, SR. et al. 2003/0017293 in view of Heider '057 to include the overlying panel with a perforated, removable section as taught by Dronzek, Jr. et al. '261 to allow for easy removal of an informational section, thus displaying additional information located on the base panel which is conveyed to the user.

17. Claim 34 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Heider '057, further in view of Matthews et al. '431. Franko, SR. et al. 2003/0017293 in view of Heider '057 lacks the presence of an adhesive deadening agent applied so that the overlying panel can be more readily peeled away from the base panel.

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Matthews et al. '431 shows in Figures 8-14 a multi-panel label having an adhesive deadening agent (216 at 215) applied so that the overlying panel (202) can be more readily peeled away from the base panel (201). In view of this teaching of Matthews et al. '431, it would have been obvious to modify the multi-panel label of Franko, SR. et al. 2003/0017293 in view of Heider '057 to include an adhesive deadening agent as taught by Matthews et al. '431 to allow for more readily peeling away the overlapping layer from the base layer.

18. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Heider '057, further still in view of Matthews et al. '431. Franko, SR. et al. 2003/0017293 in view of Brandt '850, further in view of Heider '057 lacks the presence of an adhesive deadening agent applied so that the overlying panel can be more readily peeled away from the base panel.

Matthews et al. '431 shows in Figures 8-14 a multi-panel label having an adhesive deadening agent (216 at 215) applied so that the overlying panel (202) can be more readily peeled away from the base panel (201). In view of this teaching of Matthews et al. '431, it would have been obvious to modify the multi-panel label of Franko, SR. et al. 2003/0017293 in view of Heider '057 to include an adhesive deadening agent as taught by Matthews et al. '431 to allow for more readily peeling away the overlapping layer from the base layer.

Conclusion

19. Any inquiry concerning the content of this communication from the examiner should be directed to Michael W. Talbot, whose telephone number is 571-272-4481. The examiner's office hours are typically 8:30am until 5:00pm, Monday through Friday. The examiner's supervisor, Mrs. Monica S. Carter, may be reached at 571-272-4475.

In order to reduce pendency and avoid potential delays, group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at FAX number 571-273-8300.

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This practice may be used for filling papers not requiring a fee. It may also be used for filing papers, which require a fee, by applicants who authorize charges to a USPTO deposit account.

Please identify Examiner Michael W. Talbot of Art Unit 3722 at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MWT
Examiner
16 July 2007



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